

1                                   **DOMESTIC RELATIONS RETIREMENT SHARES**

2   2015 GENERAL SESSION

3   STATE OF UTAH

4   **Chief Sponsor: Kay L. McIff**

5   Senate Sponsor: \_\_\_\_\_

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7 **LONG TITLE**

8 **General Description:**

9           This bill modifies the Utah State Retirement and Insurance Benefit Act by amending  
10 certain death benefits.

11 **Highlighted Provisions:**

12           This bill:

- 13           ▶ provides that a former spouse of a member who dies before retiring may receive a
- 14 death benefit in certain circumstances; and
- 15           ▶ makes technical changes.

16 **Money Appropriated in this Bill:**

17           None

18 **Other Special Clauses:**

19           None

20 **Utah Code Sections Affected:**

21 AMENDS:

22           **49-12-405**, as last amended by Laws of Utah 2011, Chapter 439

23           **49-13-405**, as last amended by Laws of Utah 2011, Chapter 439

24           **49-22-502**, as last amended by Laws of Utah 2011, Chapter 439

25           **49-23-502**, as last amended by Laws of Utah 2011, Chapter 439

26           **49-23-503**, as last amended by Laws of Utah 2014, Chapter 15

27 ENACTS:



28 [49-14-507](#), Utah Code Annotated 1953  
 29 [49-15-507](#), Utah Code Annotated 1953  
 30 [49-16-508](#), Utah Code Annotated 1953  
 31 [49-17-503](#), Utah Code Annotated 1953  
 32 [49-18-503](#), Utah Code Annotated 1953  
 33 [49-19-502](#), Utah Code Annotated 1953

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35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section **49-12-405** is amended to read:

37 **49-12-405. Death of married member -- Service retirement benefits to surviving**  
 38 **spouse.**

39 (1) As used in this section, "surviving spouse" means:

40 (a) the lawful spouse who has been married to the member for at least six months

41 immediately prior to the death date of the member; or

42 (b) a former spouse of a member with a valid domestic relations order benefits on file  
 43 with the office prior to the member's death date in accordance with Section [49-11-612](#).

44 ~~[(+)]~~ (2) Upon the request of a deceased member's [lawful] surviving spouse [at the  
 45 time of the member's death], the deceased member is considered to have retired under Option  
 46 Three on the first day of the month following the month in which the member died if the  
 47 following requirements are met:

48 (a) the member has:

49 (i) 25 or more years of service credit;

50 (ii) attained age 60 with 20 or more years of service credit;

51 (iii) attained age 62 with 10 or more years of service credit; or

52 (iv) attained age 65 with four or more years of service credit; and

53 (b) the member dies leaving a surviving spouse [to whom the member has been  
 54 married at least six months immediately prior to the death date].

55 (2) The surviving spouse who requests a benefit under this section shall apply in  
 56 writing to the office. The allowance shall begin on the first day of the month:

57 (a) following the month in which the member died, if the application is received by the  
 58 office within 90 days of the member's death; or

59 (b) following the month in which the application is received by the office, if the  
60 application is received by the office more than 90 days after the [~~spouse's~~] member's death.

61 (3) The Option Three benefit calculation, when there are 25 or more years of service  
62 credit, shall be calculated without a reduction in allowance under Section [49-12-402](#).

63 (4) The benefit calculation for a surviving spouse with a valid domestic relations order  
64 benefits on file with the office prior to the member's death date in accordance with Section  
65 [49-11-612](#) is calculated according to the manner in which the court order specified benefits to  
66 be partitioned, whether as a fixed amount or as a percentage of the benefit.

67 [~~4~~] (5) Except for a return of member contributions, benefits payable under this  
68 section are retirement benefits and shall be paid in addition to any payments made under  
69 Section [49-12-501](#) and constitute a full and final settlement of the claim of the surviving  
70 spouse or any other beneficiary filing claim for benefits under Section [49-12-501](#).

71 (6) If the death benefits under this section are proportioned among more than one  
72 surviving spouse due to domestic relations order benefits on file with the office prior to the  
73 member's death date in accordance with Section [49-11-612](#), the total amount received by the  
74 surviving spouses may not exceed the death benefits normally provided to one surviving  
75 spouse under this section.

76 Section 2. Section [49-13-405](#) is amended to read:

77 **[49-13-405. Death of married members -- Service retirement benefits to surviving](#)**  
78 **[spouse.](#)**

79 (1) As used in this section [~~,"member's~~]:

80 (a) "Member's full allowance" means an Option Three allowance calculated under  
81 Section [49-13-402](#) without an actuarial reduction.

82 (b) "Surviving spouse" means:

83 (i) the lawful spouse who has been married to the member for at least six months  
84 immediately prior to the death date of the member; or

85 (ii) a former spouse of a member with a valid domestic relations order benefits on file  
86 with the office prior to the member's death date in accordance with Section [49-11-612](#).

87 (2) Upon the request of a deceased member's [~~lawful~~] surviving spouse [~~at the time of~~  
88 ~~the member's death~~], the deceased member is considered to have retired under Option Three on  
89 the first day of the month following the month in which the member died if the following

90 requirements are met:

91 (a) the member has:

92 (i) 15 or more years of service credit;

93 (ii) attained age 62 with 10 or more years of service credit; or

94 (iii) attained age 65 with four or more years of service credit; and

95 (b) the member dies leaving a surviving spouse [~~to whom the member has been~~  
96 ~~married at least six months immediately prior to the death date~~].

97 (3) The surviving spouse who requests a benefit under this section shall apply in  
98 writing to the office. The allowance shall begin on the first day of the month:

99 (a) following the month in which the member died, if the application is received by the  
100 office within 90 days of the member's death; or

101 (b) following the month in which the application is received by the office, if the  
102 application is received by the office more than 90 days after the [~~spouse's~~] member's death.

103 (4) The allowance payable to a surviving spouse under Subsection (2) is:

104 (a) if the member has 25 or more years of service credit at the time of death, the  
105 surviving spouse shall receive the member's full allowance;

106 (b) if the member has between 20-24 years of service credit and is not age 60 or older  
107 at the time of death, the surviving spouse shall receive two-thirds of the member's full  
108 allowance;

109 (c) if the member has between 15-19 years of service credit and is not age 62 or older  
110 at the time of death, the surviving spouse shall receive one-third of the member's full  
111 allowance; or

112 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or  
113 older with 10 or more years of service credit, or age 65 or older with four or more years of  
114 service credit at the time of death, the surviving spouse shall receive an Option Three benefit  
115 with actuarial reductions.

116 (5) The benefit calculation for a surviving spouse with a valid domestic relations order  
117 benefits on file with the office prior to the member's death date in accordance with Section  
118 49-11-612 is calculated according to the manner in which the court order specified benefits to  
119 be partitioned, whether as a fixed amount or as a percentage of the benefit.

120 [~~(5)~~] (6) Except for a return of member contributions, benefits payable under this

121 section are retirement benefits and shall be paid in addition to any other payments made under  
122 Section [49-13-501](#) and shall constitute a full and final settlement of the claim of the spouse or  
123 any other beneficiary filing a claim for benefits under Section [49-13-501](#).

124 (7) If the death benefits under this section are proportioned among more than one  
125 surviving spouse due to domestic relations order benefits on file with the office prior to the  
126 member's death date in accordance with Section [49-11-612](#), the total amount received by the  
127 surviving spouses may not exceed the death benefits normally provided to one surviving  
128 spouse under this section.

129 Section 3. Section [49-14-507](#) is enacted to read:

130 **[49-14-507](#). Spouse at the time of death includes certain former spouses -- Benefit**  
131 **calculation for former spouse.**

132 (1) As used in this part, "spouse at the time of death" includes a former spouse of a  
133 member who is under a domestic relations order benefits on file with the office prior to the  
134 member's death date in accordance with Section [49-11-612](#).

135 (2) The benefit calculation for a surviving spouse with a valid domestic relations order  
136 benefits on file with the office prior to the member's death date in accordance with Section  
137 [49-11-612](#) is calculated according to the manner in which the court order specified benefits to  
138 be partitioned, whether as a fixed amount or as a percentage of the benefit.

139 Section 4. Section [49-15-507](#) is enacted to read:

140 **[49-15-507](#). Spouse at the time of death includes certain former spouses -- Benefit**  
141 **calculation for former spouse.**

142 (1) As used in this part, "spouse at the time of death" includes a former spouse of a  
143 member who is under a domestic relations order benefits on file with the office prior to the  
144 member's death date in accordance with Section [49-11-612](#).

145 (2) The benefit calculation for a surviving spouse with a valid domestic relations order  
146 benefits on file with the office prior to the member's death date in accordance with Section  
147 [49-11-612](#) is calculated according to the manner in which the court order specified benefits to  
148 be partitioned, whether as a fixed amount or as a percentage of the benefit.

149 Section 5. Section [49-16-508](#) is enacted to read:

150 **[49-16-508](#). Spouse at the time of death includes certain former spouses -- Benefit**  
151 **calculation for former spouse.**

152 (1) As used in this part, "spouse at the time of death" includes a former spouse of a  
153 member who is under a domestic relations order benefits on file with the office prior to the  
154 member's death date in accordance with Section [49-11-612](#).

155 (2) The benefit calculation for a surviving spouse with a valid domestic relations order  
156 benefits on file with the office prior to the member's death date in accordance with Section  
157 [49-11-612](#) is calculated according to the manner in which the court order specified benefits to  
158 be partitioned, whether as a fixed amount or as a percentage of the benefit.

159 Section 6. Section **49-17-503** is enacted to read:

160 **49-17-503. Spouse at the time of death includes certain former spouses -- Benefit**  
161 **calculation for former spouse.**

162 (1) As used in this part, "spouse at the time of death" includes a former spouse of a  
163 member who is under a domestic relations order benefits on file with the office prior to the  
164 member's death date in accordance with Section [49-11-612](#).

165 (2) The benefit calculation for a surviving spouse with a valid domestic relations order  
166 benefits on file with the office prior to the member's death date in accordance with Section  
167 [49-11-612](#) is calculated according to the manner in which the court order specified benefits to  
168 be partitioned, whether as a fixed amount or as a percentage of the benefit.

169 Section 7. Section **49-18-503** is enacted to read:

170 **49-18-503. Spouse at the time of death includes certain former spouses -- Benefit**  
171 **calculation for former spouse.**

172 (1) As used in this part, "spouse at the time of death" includes a former spouse of a  
173 member who is under a domestic relations order benefits on file with the office prior to the  
174 member's death date in accordance with Section [49-11-612](#).

175 (2) The benefit calculation for a surviving spouse with a valid domestic relations order  
176 benefits on file with the office prior to the member's death date in accordance with Section  
177 [49-11-612](#) is calculated according to the manner in which the court order specified benefits to  
178 be partitioned, whether as a fixed amount or as a percentage of the benefit.

179 Section 8. Section **49-19-502** is enacted to read:

180 **49-19-502. Spouse at the time of death includes certain former spouses -- Benefit**  
181 **calculation for former spouse.**

182 (1) As used in this part, "spouse at the time of death" includes a former spouse of a

183 member who is under a domestic relations order benefits on file with the office prior to the  
 184 member's death date in accordance with Section [49-11-612](#).

185 (2) The benefit calculation for a surviving spouse with a valid domestic relations order  
 186 benefits on file with the office prior to the member's death date in accordance with Section  
 187 [49-11-612](#) is calculated according to the manner in which the court order specified benefits to  
 188 be partitioned, whether as a fixed amount or as a percentage of the benefit.

189 Section 9. Section **49-22-502** is amended to read:

190 **49-22-502. Death of married members -- Service retirement benefits to surviving**  
 191 **spouse.**

192 (1) As used in this section[, "member's"] and Section [49-22-503](#):

193 (a) "Member's full allowance" means an Option Three allowance calculated under  
 194 Section [49-22-305](#) without an actuarial reduction.

195 (b) "Surviving spouse" means:

196 (i) the lawful spouse who has been married to the member for at least six months  
 197 immediately prior to the death date of the member; or

198 (ii) a former spouse of a member with a valid domestic relations order benefits on file  
 199 with the office prior to the member's death date in accordance with Section [49-11-612](#).

200 (2) Upon the request of a deceased member's [~~lawful~~] surviving spouse [~~at the time of~~  
 201 ~~the member's death~~], the deceased member is considered to have retired under Option Three on  
 202 the first day of the month following the month in which the member died if the following  
 203 requirements are met:

204 (a) the member has:

205 (i) 15 or more years of service credit;

206 (ii) attained age 62 with 10 or more years of service credit; or

207 (iii) attained age 65 with four or more years of service credit; and

208 (b) the member dies leaving a surviving spouse [~~to whom the member has been~~  
 209 ~~married at least six months immediately prior to the death date~~].

210 (3) The surviving spouse who requests a benefit under this section shall apply in  
 211 writing to the office. The allowance shall begin on the first day of the month:

212 (a) following the month in which the member died, if the application is received by the  
 213 office within 90 days of the member's death; or

214 (b) following the month in which the application is received by the office, if the  
215 application is received by the office more than 90 days after the [spouse's] member's death.

216 (4) The allowance payable to a surviving spouse under Subsection (2) is as follows:

217 (a) if the member has 25 or more years of service credit at the time of death, the  
218 surviving spouse shall receive the member's full allowance;

219 (b) if the member has between 20-24 years of service credit and is not age 60 or older  
220 at the time of death, the surviving spouse shall receive 2/3 of the member's full allowance;

221 (c) if the member has between 15-19 years of service credit and is not age 62 or older  
222 at the time of death, the surviving spouse shall receive 1/3 of the member's full allowance; or

223 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or  
224 older with 10 or more years of service credit, or age 65 or older with four or more years of  
225 service credit at the time of death, the surviving spouse shall receive an Option Three benefit  
226 with actuarial reductions.

227 (5) The benefit calculation for a surviving spouse with a valid domestic relations order  
228 benefits on file with the office prior to the member's death date in accordance with Section  
229 49-11-612 is calculated according to the manner in which the court order specified benefits to  
230 be partitioned, whether as a fixed amount or as a percentage of the benefit.

231 [~~5~~] (6) Except for a return of member contributions, benefits payable under this  
232 section are retirement benefits and shall be paid in addition to any other payments made under  
233 Section 49-22-501 and shall constitute a full and final settlement of the claim of the surviving  
234 spouse or any other beneficiary filing a claim for benefits under Section 49-22-501.

235 (7) If the death benefits under this section are proportioned among more than one  
236 surviving spouse due to domestic relations order benefits on file with the office prior to the  
237 member's death date in accordance with Section 49-11-612, the total amount received by the  
238 surviving spouses may not exceed the death benefits normally provided to one surviving  
239 spouse under this section.

240 Section 10. Section 49-23-502 is amended to read:

241 **49-23-502. Death of married members -- Service retirement benefits to surviving**  
242 **spouse.**

243 (1) As used in this section[, "member's"] and Section 49-23-503:

244 (a) "Member's full allowance" means an Option Three allowance calculated under

245 Section [49-23-304](#) without an actuarial reduction.

246 (b) "Surviving spouse" means:

247 (i) the lawful spouse who has been married to the member for at least six months  
248 immediately prior to the death date of the member; or

249 (ii) a former spouse of a member with a valid domestic relations order benefits on file  
250 with the office prior to the member's death date in accordance with Section [49-11-612](#).

251 (2) Upon the request of a deceased member's ~~lawful~~ surviving spouse at the time of  
252 the member's death, the deceased member is considered to have retired under Option Three on  
253 the first day of the month following the month in which the member died if the following  
254 requirements are met:

255 (a) the member has:

256 (i) 15 or more years of service credit;

257 (ii) attained age 62 with 10 or more years of service credit; or

258 (iii) attained age 65 with four or more years of service credit; and

259 (b) the member dies leaving a surviving spouse ~~[to whom the member has been~~  
260 ~~married at least six months immediately prior to the death date]~~.

261 (3) The spouse who requests a benefit under this section shall apply in writing to the  
262 office. The allowance shall begin on the first day of the month:

263 (a) following the month in which the member died, if the application is received by the  
264 office within 90 days of the member's death; or

265 (b) following the month in which the application is received by the office, if the  
266 application is received by the office more than 90 days after the ~~[spouse's]~~ member's death.

267 (4) The allowance payable to a surviving spouse under Subsection (2) is:

268 (a) if the member has 25 or more years of service credit at the time of death, the  
269 surviving spouse shall receive the member's full allowance;

270 (b) if the member has between 20-24 years of service credit and is not age 60 or older  
271 at the time of death, the surviving spouse shall receive two-thirds of the member's full  
272 allowance;

273 (c) if the member has between 15-19 years of service credit and is not age 62 or older  
274 at the time of death, the surviving spouse shall receive one-third of the member's full  
275 allowance; or

276 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or  
277 older with 10 or more years of service credit, or age 65 or older with four or more years of  
278 service credit at the time of death, the surviving spouse shall receive an Option Three benefit  
279 with actuarial reductions.

280 (5) The benefit calculation for a surviving spouse with a valid domestic relations order  
281 benefits on file with the office prior to the member's death date in accordance with Section  
282 49-11-612 is calculated according to the manner in which the court order specified benefits to  
283 be partitioned, whether as a fixed amount or as a percentage of the benefit.

284 ~~[(5)]~~ (6) Except for a return of member contributions, benefits payable under this  
285 section are retirement benefits and shall be paid in addition to any other payments made under  
286 Section 49-23-501 and shall constitute a full and final settlement of the claim of the surviving  
287 spouse or any other beneficiary filing a claim for benefits under Section 49-23-501.

288 (7) If the death benefits under this section or Section 49-23-503 are proportioned  
289 among more than one surviving spouse due to domestic relations order benefits on file with the  
290 office prior to the member's death date in accordance with Section 49-11-612, the total amount  
291 received by the surviving spouses may not exceed the death benefits normally provided to one  
292 surviving spouse under this section.

293 Section 11. Section 49-23-503 is amended to read:

294 **49-23-503. Death of active member in line of duty -- Payment of benefits.**

295 If an active member of this system dies, benefits are payable as follows:

296 (1) If the death is classified by the office as a line-of-duty death, benefits are payable as  
297 follows:

298 (a) If the member has accrued less than 20 years of public safety service or firefighter  
299 service credit, the surviving spouse ~~[at the time of death]~~ shall receive a lump sum of \$1,000  
300 and an allowance equal to 30% of the member's final average monthly salary.

301 (b) If the member has accrued 20 or more years of public safety service or firefighter  
302 service credit, the member shall be considered to have retired with an Option One allowance  
303 calculated without an actuarial reduction under Section 49-23-304 and the surviving spouse ~~[at~~  
304 ~~the time of death]~~ shall receive the allowance that would have been payable to the member.

305 (2) (a) A volunteer firefighter is eligible for a line-of-duty death benefit under this  
306 section if the death results from external force, violence, or disease directly resulting from

307 firefighter service.

308 (b) The lowest monthly compensation of firefighters of a city of the first class in this  
309 state at the time of death shall be considered to be the final average monthly salary of a  
310 volunteer firefighter for purposes of computing these benefits.

311 (c) Each volunteer fire department shall maintain a current roll of all volunteer  
312 firefighters which meet the requirements of Subsection 49-23-102(12) to determine the  
313 eligibility for this benefit.

314 (3) (a) If the death is classified as a line-of-duty death by the office, death benefits are  
315 payable under this section and the surviving spouse [~~at the time of death~~] is not eligible for  
316 benefits under Section 49-23-502.

317 (b) If the death is not classified as a line-of-duty death by the office, benefits are  
318 payable in accordance with Section 49-23-502.

319 (4) (a) A surviving spouse who qualifies for a monthly benefit under this section shall  
320 apply in writing to the office.

321 (b) The allowance shall begin on the first day of the month following the month in  
322 which the:

323 (i) member or participant died, if the application is received by the office within 90  
324 days of the date of death of the member or participant; or

325 (ii) application is received by the office, if the application is received by the office  
326 more than 90 days after the date of death of the member or participant.

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**Legislative Review Note**  
as of 2-24-15 12:39 PM

**Office of Legislative Research and General Counsel**